

IN RE COMPLIANCE)	PDC CASE NO: 00-261
WITH RCW 42.17)	
)	
)	Amended Report of
)	Investigation
Citizens for Brian Derdowski)	
Brian Derdowski,)	
Respondent)	
)	

- 1.1 Brian Derdowski was elected to the King County Council in 1995.
- 1.2 On January 26, 1998, Brian Derdowski filed a Candidate Registration Statement (PDC Form C-1) declaring his candidacy for re-election to King County Council position #12 in 1999. See Exhibit #1.
- 1.3 On November 22, 1999, Julie Imperatori filed a formal complaint with the Public Disclosure Commission (PDC) against the Citizens for Brian Derdowski-1999 campaign. The complaint alleged violations of RCW 42.17.080 and RCW 42.17.090 for failure to adhere to the open records provision and failure to timely file reports of contributions and expenditures. See Exhibit #2.

SCOPE

- 2.1 Public Disclosure Commission Campaign Reports (PDC Forms C-3 & C-4) submitted by the Citizens for Brian Derdowski-1999 were reviewed for the period of October 1996 to present.

- 2.2 Invoices, bank statements and other account information, and photocopies of contributor's checks submitted by the Citizens for Brian Derdowski-1999 were also reviewed.
- 2.3 Correspondence and telephone conversations with Brian Derdowski, and Virginia Sweetland, former treasurer of the Citizens for Brian Derdowski-1999, were also reviewed.

III.

RELEVANT AREAS OF LAW

- 3.1 RCW 42.17.040 states the following with regard to the filing of a statement of organization by a candidate or political action committee:

“(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change.”

- 3.2 RCW 42.17.080 states in part:

“(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides, a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election: PROVIDED, That this report shall not be required following a primary election from:

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, each Friday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor.

(4) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040, the books of account must be open for public inspection as follows:

(a) For at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(b) By appointment for inspections to be conducted at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any other day from the seventh day through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days in the week prior to the election. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(7) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission."

3.3 RCW 42.17.090 states in part:

"(1) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following:

- (a) The funds on hand at the beginning of the period;**
- (b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign...**
- (d) All other contributions not otherwise listed or exempted;**
- (f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, and the amount, date, and purpose of each such expenditure;**
- (h) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;**

IV.

FINDINGS

- 4.1 On November 22, 1999, Julie Imperatori filed a formal complaint against the Citizens for Brian Derdowski-1999 campaign. The complaint alleged violations of RCW 42.17.080 and RCW 42.17.090 for failing to timely file reports listing contribution and expenditure activity for the campaign, and failing to have its books and records open for inspection as required by RCW 42.17.080.

Committee Registration Statements:

- 4.2 On January 26, 1998, Brian Derdowski filed an initial Candidate Registration Statement (PDC Form C-1) declaring his candidacy for re-election to King County Council position #12 in the 1999 election.
- 4.3 On July 14, 1999, an amended C-1 was filed by the Derdowski Campaign listing a change of address for the treasurer and the open records inspection. The address and phone number of Virginia Sweetland, campaign treasurer, changed from North Bend to Republic, indicating that Ms. Sweetland had moved to Eastern Washington. See Exhibit #3.
- 4.4 On May 8, 2000, a memorandum from Virginia Sweetland was submitted to the PDC as part of a follow-up to an earlier phone conversation regarding this investigation. See Exhibit #4. Ms. Sweetland stated the following in her memo:

“My assignment as campaign treasurer for Citizens for Brian Derdowski was terminated effective September 7, 1999.”

“During my assignment as treasurer, I was never a listed signer for the campaign bank account nor did I have any authority to contract for, pay for or agree to pay any vendor for any product or service. My role was one of keeping records, and preparing and filing PDC reports based on information provided to me by the candidate.”

“ I consider that as of September 7, 1999, I was relieved, de-facto, of the position of campaign treasurer.”

- 4.5 On June 1, 2000, an amended C-1 was filed by the Derdowski Campaign, which listed a change in campaign treasurers. The amended C-1 was filed 266 days after the change in treasurers had occurred listing the candidate, Brian Derdowski, as the new treasurer.

Filing of C-3 and C-4 Reports:

- 4.6 On September 7, 1999, the Citizens for Brian Derdowski-1999 campaign filed the 7-day pre-primary C-4 report covering the period August 18-September 6, 1999. That C-4 report listed \$10,677.55 in new contributions received for the period, and \$24,337.69 in new expenditures.

- 4.7 On September 8, 1999, the Citizens for Brian Derdowski-1999 filed a C-3 report totaling \$4,825 listing contributor information for a deposit made on September 3, 1999. No additional C-3 reports have been submitted since that date. See Exhibit #5.
- 4.8 On November 24, 1999, PDC staff sent a letter informing the Citizens for Brian Derdowski-1999 about Ms. Imperatori's complaint and requesting a response no later than December 8, 1999.
- 4.9 On December 8th, Mr. Derdowski contacted PDC staff requesting an extension in responding to the allegations until the end of January 2000, since he was closing down his office as a King County Council member.
- 4.10 On March 8, 2000, PDC staff sent another letter to the Citizens for Brian Derdowski-1999 about being past the extension date for responding to Ms. Imperatori's complaint and requesting a response no later than March 20, 2000.
- 4.11 On April 12, 2000, PDC staff sent an additional letter to the Citizens for Brian Derdowski-1999 regarding their failure to file any campaign contribution or expenditure reports after September 8, 1999. In addition to requesting the missing reports, PDC staff also requested the campaign to provide invoices and bank statements for the period July 1-December 31, 1999.
- 4.12 On June 1, 2000, the Citizens for Brian Derdowski-1999 filed two late C-4 reports in accordance with our request dated April 12, 2000, and Ms. Imperatori's complaint. See Exhibit #6. Brian Derdowski also delivered campaign bank statements, invoices, check registers, and copies of contributor checks to the Commission staff. The former treasurer, Virginia Sweetland, stated the following in her response:
- "On September 7, 1999, I filed the pre-Primary C-4 report. I received no further information from the candidate and was therefore unable to comply with the filing requirement for the post-election report."**
- 4.13 One of the C-4 reports filed by the Citizens for Brian Derdowski-1999 on June 1, 2000, was the post-election C-4 which covered the period September 7-September 30, 1999.
- 4.14 Mr. Derdowski lost in a contested primary held on September 14, 1999, to Dave Irons. Therefore, the post-election C-4 report is a required filing that

should have been filed no later than October 10, 1999. The Derdowski Campaign filed the post-election C-4 233 days late, and reported previously undisclosed expenditures totaling \$19,946.05, new campaign obligations totaling \$18,450.81, and \$484.99 for in-kind contributions.

4.15 The \$18,450.81 in new campaign obligations included several orders placed that should have been disclosed on the 7-day pre-primary due on September 7, 1999. Those obligations were not disclosed to the public until June 1, 2000, when the Citizens for Brian Derdowski-1999 filed a post-election C-4 reporting the vendors and amounts as follows:

- An invoice dated September 11, 1999, from Ecographics provided a brief history of the invoices and payments from the Derdowski campaign from May 1-September 10, 1999. As of September 10th, a total of \$7,163.55 in orders placed for printing campaign literature was owed by the campaign. See Exhibit #7.

The description on the invoice indicated three orders for printing were placed between August 24-August 31 totaling \$4,402.91, however no invoices or other information were provided by the Derdowski Campaign. The description on Exhibit #7 included an August 24th date for invoice #5931 in the amount of \$1,394.16, and August 31st date for invoice #5938 totaling \$2,776.23. One invoice was provided which listed the order date as September 10, 1999, in the amount of \$2,760.64 for 15,000 brochures and 5,000 postcards;

- An order was placed and shipped for 40,000 brochures from Andover Printing & Graphics on August 26, 1999, at a cost of \$3,377.35. See Exhibit #8. The post-election C-4 report listed the order placed or obligation owed to Andover Printing by the Derdowski Campaign as September 15, 1999. The C-4 report covering the period October 1, 1999-April 30, 2000, listed a \$900 payment to Andover Printing on April 27, 2000, with a balanced owed totaling \$2,997.60;
- According to the Schedule B filed with the post-election C-4 report on June 1, 2000, an order for yardsigns was placed on September 10, 1999, with Boruck Printing and Silk Screen totaling \$1,547.50. This obligation would have occurred five days prior to the primary election, according to the September 10th date. No invoice was included to determine whether or not this should have been disclosed on the 7-day pre-primary C-4 report as an order placed.

- 4.16 According to the bank statements and the deposits listed on the June 1, 2000, post-election Schedule A to C-4 report submitted by the Citizens for Brian Derdowski-1999, eight (8) deposits were made totaling \$19,437 between September 8-20, 1999. As of the date of this report, no C-3 reports have been filed by the Citizens for Brian Derdowski-1999 disclosing the source of those funds, despite assurances from Mr. Derdowski at the June 1st meeting that those reports would be filed promptly.
- 4.17 In addition, an additional C-4 report was submitted by the Citizens for Brian Derdowski-1999 on June 1, 2000, covering the period October 1, 1999-April 30, 2000. That C-4 listed three additional deposits totaling \$3,090, although no C-3 reports have been filed disclosing the source of the funds.

Open Records Provision:

- 4.18 On March 31, 2000, Brian Derdowski faxed a three-page response to the allegations listed in the complaint filed by Ms. Imperatori. See Exhibit #9. The former treasurer for the campaign, Virginia Sweetland, stated the following in her May 8, 2000, letter to the PDC:

“Prior to September 6, 1999, I forwarded by U.S. Mail the original copies of all campaign records to Brian Derdowski, to be made available for public inspection at the campaign headquarters in Preston, Washington, at the address and at the times stated on the then-current C-1 report.”

- 4.19 For the 1999 primary election, the timeframe for the campaign books to be open for public inspection was September 6-13, for two consecutive hours. On September 10, 1999, Jolie Imperatori showed up for an appointment to conduct a public records inspection of the Derdowski Campaign. Ms. Imperatori requested copies of all public disclosure campaign reports filed by the Derdowski campaign as part of the open records provision of RCW 42.17.080(6). No reports were made available to her, and Mr. Derdowski stated the following in his response:

“Since our PDC reports were filed with the County and State, the information requested was readily available to Ms. Imperatori.”

- 4.20 Ms. Imperatori requested copies of Mr. Derdowski's Personal Financial Affairs Statement for calendar year 1998, which should have been filed no later than April 15, 1999. Since Mr. Derdowski was an incumbent elected

official, the F-1 is not considered a "campaign-related" document that was required to be included as part of the open records provision.

- 4.21 Ms. Imperatori made a request to inspect the cash receipts journal of the Derdowski Campaign as part of the open records provision. In his response, Mr. Derdowski stated the following:

"Campaign cash receipts were negligible. At the time of Ms . Imperatori's visit we had none, other than those that had already been reported to the PDC."

However, according to the Schedule A to C-4 filed on June 1, 2000, covering the period September 7-30, 1999, there were three deposits made by the Derdowski Campaign on September 8, 1999, totaling more than \$8,000. No C-3 reports have been filed, and the source of those contributions was not disclosed or listed as part of the open records inspection.

- 4.22 While banks statements were available for public inspection, there were no bank deposit slips or cancelled checks available for Ms. Imperatori's review. Brian Derdowski stated the following:

"Since I personally made most deposits, I had the receipts in my personal campaign notebook. The bank statements, which were available, provided adequate documentation. The cancelled checks were maintained by the Treasurer. The PDC reports on file provided adequate record for disclosure purposes."

No campaign reports filed with the PDC by the Derdowski campaign were available for the open records provision. A review of the invoices provided by Mr. Derdowski on June 1, 2000, indicated that some orders had been placed prior to September 6, 1999, although no invoice or other documentation was available for public inspection.

Respectfully Submitted this ____ day of July, 2000.

Kurt Young
Senior Political Finance Specialist